

AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 456

Introduced by Senator Simitian

February 21, 2007

An act to add Chapter 10.1 (commencing with Section 108925) to Part 3 of Division 104 of the Health and Safety Code, relating to toxic substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 456, as amended, Simitian. Diacetyl.

Existing law, the California Hazardous Substances Act, prohibits the manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale within the State of California, of a package of a misbranded hazardous substance or banned hazardous substance.

This bill would prohibit, on and after June 1, 2008, a person from manufacturing, processing, or distributing in commerce a product containing diacetyl, except that this prohibition may be delayed, as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 10.1 (commencing with Section 108925)
- 2 is added to Part 3 of Division 104 of the Health and Safety Code,
- 3 to read:

CHAPTER 10.1. DIACETYL

108925. The Legislature finds and declares all of the following:

(a) It is necessary for the state to develop a precautionary approach regarding the production, use, storage, or disposal of products containing diacetyl, which is an artificial flavoring mixed with other ingredients to produce a butter-like flavor in a variety of food products. It is used in hundreds of consumer food products, including, but not limited to, microwave popcorn, pancake syrup, cakes, candies, and frozen foods.

(b) Exposure to diacetyl vapors has been associated with constrictive bronchiolitis obliterans, a severe and potentially fatal lung disease that causes inflammation and scarring in the small airways of the lungs which leads to severe impairment of lung function. Most cases do not respond to medical treatment and can only be cured by lung transplant.

(c) A safe exposure level has not been determined by either state or federal governmental entities by which mitigation measures can be developed and implemented.

108926. (a) Except as provided in subdivision (b), on and after June 1, 2008, a person ~~may~~ *shall* not manufacture, process, or distribute in commerce a product containing diacetyl.

(b) The director, with the concurrence of the Secretary for Environmental Protection, may defer, for a period not to exceed two years, subject to a renewal period not to exceed two years, the effective date of the prohibition described in subdivision (a) with respect to a specific product containing diacetyl, if both of the following occur:

(1) The director receives a petition from the manufacturer requesting a deferral of prohibition.

(2) The director makes a written finding that prohibiting the sale of the product would cause substantial economic hardship to the users of the product, that no feasible alternative to the product is available, and that there would be ~~no unmitigated human exposure to the product~~ *appropriate mitigation to the greatest extent practicable*.

(c) For purposes of this section, the following definitions shall apply:

- 1 (1) “Diacetyl” means diacetyl (2,3-butanedione, chemical
2 abstract service number 431-0308). “*Diacetyl*” *does not include*
3 *naturally occurring diacetyl for the purposes of this chapter.*
4 (2) “Director” means the Director of the Office of Environmental
5 Health Hazard Assessment.

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